

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

PART 126

SMOKING IN PUBLIC PLACES

333.12601 Definitions.

Sec. 12601. (1) As used in this part:

(a) "Child caring institution" and "child care center" mean those terms as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(b) "County medical care facility" means that term as defined in section 20104.

(c) "Educational facility" means a building owned, leased, or under the control of a public or private school system, college, or university.

(d) "Food service establishment" means a food service establishment as defined in section 12901.

(e) "Health facility" means a health facility or agency licensed under article 17, except a home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(f) "Home for the aged" means that term as defined in section 20106.

(g) "Hospice" means that term as defined in section 20106.

(h) "Hospital long-term care unit" means that term as defined in section 20106.

(i) "Licensed premises" means any portion of a building, structure, room, or enclosure in which alcoholic liquor may be sold for consumption on the premises pursuant to a license issued by the Michigan liquor control commission.

(j) "Meeting" means a meeting as defined in section 2 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.262 of the Michigan Compiled Laws.

(k) "Nursing home" means that term as defined in section 20109.

(l) "Public body" means a public body as defined in section 2 of the open meetings act, Act No. 267 of the Public Acts of 1976.

(m) "Public place", except as otherwise provided in subsection (2), means both of the following:

(i) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a place of work for public employees or a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.

(ii) An enclosed, indoor area which is not owned or operated by a state or local governmental agency, is used by the general public, and is 1 of the following:

(A) An educational facility.

(B) A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

(H) Any other facility during the period of its use for a performance or exhibit of the arts.

(n) "Smoking" or "smoke" means the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

(2) Public place does not include a private, enclosed room or office occupied exclusively by a smoker, even if the room or enclosed office may be visited by a nonsmoker.

(3) In addition, article 1 contains general definitions and principles of construction applicable to all articles of this code.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

Compiler's note: For transfer of certain powers and duties of the center for health promotion and chronic disease prevention from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

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333.12603 Smoking in public place or at meeting of public body prohibited; exception; applicability of section.

Sec. 12603. (1) Except as otherwise provided by law, an individual shall not smoke in a public place or at a meeting of a public body, except in a designated smoking area.

(2) This section does not apply to a room, hall, or building used for a private function if the seating arrangements are under the control of the sponsor of the function and not under the control of the state or local governmental agency or the person who owns or operates the room, hall, or building.

(3) This section does not apply to a food service establishment or to licensed premises.

(4) This section shall not apply to a private educational facility after regularly scheduled school hours.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994.

Popular name: Act 368

333.12604 Smoking in a child caring institution or child care center or on the real property under control of institution or center; violation; penalties.

Sec. 12604. (1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or a child care center and upon which the child caring institution or child care center is located, including other related buildings.

(2) An individual who violates this section is subject to all the penalties described in section 15 of Act No. 116 of the Public Acts of 1973, being section 722.125 of the Michigan Compiled Laws, except imprisonment.

History: Add. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1991, Act 178, Eff. June 21, 1992;—Am. 1993, Act 217, Eff. Apr. 1, 1994.

Popular name: Act 368

333.12604a Smoking in private practice office or health facility prohibited; exceptions.

Sec. 12604a. (1) An individual shall not smoke in the common or treatment area of a private practice office of an individual who is licensed under article 15.

(2) An individual shall not smoke in a health facility except under 1 or more of the following circumstances:

(a) In cases where a prohibition on smoking would be detrimental to the patient's treatment as defined by medical conditions identified by the collective health facility medical staff. Patients who are permitted to smoke under this subdivision shall be placed in a separate room from nonsmoking patients.

(b) If a health facility allows smoking, that smoking is allowed only in designated areas that are enclosed and ventilated or otherwise constructed which ensures a smoke free environment in patient care areas and common areas.

History: Add. 1988, Act 315, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12605 Designation of smoking area; minimizing toxic effect of smoke; public place consisting of single room; written policy for separation of smokers and nonsmokers.

Sec. 12605. (1) A smoking area may be designated by the state or local governmental agency or the person who owns or operates a public place, except in a public place in which smoking is prohibited by law. If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in both smoking and adjacent nonsmoking areas.

(2) In the case of a public place consisting of a single room, the state or local governmental agency or the person who owns or operates the single room shall be in compliance with this part if 1/2 of the room is reserved and posted as a no smoking area.

(3) If smoking is permitted in a public place, the state or local governmental agency or the person who owns or operates the public place shall develop a written policy for the separation of smokers and nonsmokers which provides, at a minimum, for all of the following:

(a) Nonsmokers to be located closest to the source of fresh air.

(b) Special consideration to be given to individuals with a hypersensitivity to tobacco smoke.

(c) A procedure to receive, investigate, and take action on complaints.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12607 Prevention of smoking; duties of state or local governmental agency.

Sec. 12607. The state or local governmental agency or the person who owns or operates a public place shall, at a minimum, do all of the following in order to prevent smoking:

(a) Post signs which state that smoking in that public place is prohibited, except in designated smoking areas, pursuant to this part.

- (b) Arrange seating to provide, as nearly as practicable, a smoke-free area.
- (c) Implement and enforce the policy for the separation of smokers and nonsmokers developed under section 12605(3).

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12609 Rules.

Sec. 12609. The department may promulgate rules to implement this part.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987.

Popular name: Act 368

333.12611 Violation; compliance; civil fine.

Sec. 12611. A person who violates section 12603(1) or 12604a or a person or state or local governmental agency that owns or operates a public place and that violates section 12605 or 12607 shall be directed to comply with this part and is subject to a civil fine of not more than \$100.00 for a first violation and not more than \$500.00 for a second or subsequent violation.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994.

Popular name: Act 368

333.12613 Enforcement; civil fine; injunctive relief; remedies independent and cumulative.

Sec. 12613. (1) Subject to subsection (2), the department shall enforce this part and rules promulgated under this part pursuant to sections 2262(2) and 2263. In addition to the civil fine authorized under section 12611, the department may enforce this part and the rules promulgated under this part through an action commenced pursuant to section 2255 or any other appropriate action authorized by law.

(2) Pursuant to section 2235, the department may authorize a local health department to enforce this part and the rules promulgated under this part. A local health department authorized to enforce this part and the rules promulgated under this part shall enforce this part and the rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the civil fine authorized under section 12611, a local health department may enforce this part and the rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(3) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action for appropriate injunctive relief, if the person has used the public place, child caring institution, child care center, health facility, or private practice office of an individual who is licensed under article 15 within 60 days after the civil action is filed.

(4) The remedies under this part are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12614 Reports.

Sec. 12614. (1) The director shall report biennially to the legislature on the effect and enforcement of this part. The report shall include, at a minimum, both of the following:

(a) The policy of each state agency that has developed a policy for the separation of smokers and nonsmokers.

(b) Compliance with section 12607.

(2) Upon request of the department, the director of the department of management and budget annually shall report to the department, at a minimum, all of the following:

(a) A list of each public place owned or operated by the state.

(b) Compliance with section 12607.

(c) The smoking policy, if any, adopted by each public place listed under subdivision (a).

History: Add. 1988, Act 296, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12615 Part cumulative.

Sec. 12615. This part is in addition to, and does not supersede the requirements for a policy regulating the smoking of tobacco on the premises of a nursing home set forth in section 21733, or the requirements for a

food service establishment set forth in section 12905.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12616 Short title.

Sec. 12616. This part shall be known and may be cited as the “Michigan clean indoor air act”.

History: Add. 1988, Act 296, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12617 Effective date.

Sec. 12617. This part shall take effect January 1, 1987.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987.

Popular name: Act 368